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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111213751-2102-02]

RIN 0648-XC082

Fisheries of the Exclusive Economic Zone Off Alaska; “Other Flatfish” in the Bering Sea and Aleutian Islands Management Area and Greenland Turbot in the Aleutian Island Subarea of the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; apportionment of reserves; request for comments.

SUMMARY: NMFS apportions amounts of the non-specified reserve to the initial total allowable catch (ITAC) of “other flatfish” in the Bering Sea and Aleutian Islands management area (BSAI) and Greenland turbot in the Aleutian Island subarea of the BSAI. This action is necessary to allow the fisheries to continue operating. It is intended to promote the goals and objectives of the fishery management plan for the BSAI.

DATES: Effective [insert date of filing for public inspection in the FEDERAL REGISTER] through 2400 hrs, Alaska local time, December 31, 2012. Comments must be received at the following address no later than 4:30 p.m., Alaska local time, [insert date 15 days after date of filing for public inspection in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2012-0125, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov. To submit comments via the e-Rulemaking Portal, first click the “submit a comment” icon, then enter NOAA-NMFS-2012-0125 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on that line.
- Mail: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.
- Fax: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907-586-7557.
- Hand delivery to the Federal Building: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible.

Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7269.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the (BSAI) exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2012 ITAC of “other flatfish” in the BSAI was established as 2,720 metric tons (mt), and the 2012 ITAC of Greenland turbot in the Aleutian Island subarea was established as 2,066 mt by the final 2012 and 2013 harvest specifications for groundfish of the BSAI (77 FR 10669, February 23, 2012). In accordance with § 679.20(a)(3), the Regional Administrator, Alaska Region, NMFS, has reviewed the most current available data and finds that the ITAC for “other flatfish” and the ITAC for Aleutian Island subarea Greenland turbot in the BSAI needs to be supplemented from the non-specified reserve in order to promote efficiency in the utilization of fishery resources in the BSAI and allow fishing operations to continue.

Therefore, in accordance with § 679.20(b)(3), NMFS apportions from the non-specified reserve of groundfish 480 mt to the “other flatfish” ITAC and 364 mt to the Aleutian Island subarea Greenland turbot ITAC in the BSAI. This apportionment is consistent with § 679.20(b)(1)(i) and does not result in overfishing of a target species because the revised ITAC is equal to or less than the specifications of the acceptable biological catch in the final 2012 and 2013 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012).

The harvest specification for the 2012 ITAC included in the harvest specifications for groundfish in the BSAI is revised as follows: 3,200 mt for “other flatfish” and 2,430 mt for Aleutian Island subarea Greenland turbot in the BSAI.

Classification

On June 27, 2012, the public in the Alaska Region was notified of the reallocation of Greenland turbot in the Aleutian Islands subarea and of “other flatfish” in the BSAI, through local information bulletins. This action implements those reallocations.

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and § 679.20(b)(3)(iii)(A) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the apportionment of the non-specified reserves of groundfish to the “other flatfish” fishery and the Aleutian Islands subarea Greenland turbot fishery in the BSAI. Immediate

notification is necessary to allow for the orderly conduct and efficient operation of these fisheries, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 22, 2012.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Under § 679.20(b)(3)(iii), interested persons are invited to submit written comments on this action (see ADDRESSES) until [INSERT DATE 15 DAYS AFTER DATE OF FILING IN THE FEDERAL REGISTER].

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801, et seq.

Dated: August 1, 2012.

Lindsay Fullenkamp,
Acting Deputy Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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